

Board of Selectmen  
Long Beach Meeting  
Saturday, 9/21/13

A meeting of the Rockport Board of Selectmen was held on Saturday, 9/21/13, in Conference Room A at Town Hall with five selectpersons, the Town Administrator, the Asst. to the Town Administrator, Atty. Sharin Everett from Kopelman & Page, and Diane Lashua and Tim Good from the Rockport Assessor's Office.

9:20 am: Chairperson Battistelli convened the meeting and informed the group of the purpose of this meeting and stated that there will be no public comment period; introductions were made.

Chairperson Battistelli explained that the Board of Selectmen has been looking at this for over two years. She said we have heard from some residents questioning why they are hearing about this so late, with 12/31/13 right around the corner.

Chairperson Battistelli stated that the 9/3/13 meeting minutes need to be corrected to reflect that today's meeting was to be a regular meeting and next Tuesday's meeting (9/24/13) was to be a workshop.

Selectperson Sheedy moved that the Board of Selectmen waive the practice of not voting at workshops, for next Tuesday's workshop, seconded by Selectperson Murphy, Vote: 3-1. Selectperson Murphy is not in favor of voting at workshops and questioned why the votes can't wait until the next regularly scheduled meeting. Three members were in favor of voting at next Tuesday's workshop; Selectperson Murphy voted against it, Selectperson Wilkinson was not present for the vote.

Selectperson Sheedy moved that we continue the current leases with the expiration date of 12/31/13, seconded by Selectperson Murphy. 4-0, Selectperson Wilkinson was not present for the vote.

Issues to be discussed:

1. Term of the lease
2. Rental value
3. Fair market value
4. Sale of the lots
5. Repair of the wall
6. Seasonal or year round occupancy

Selectperson Murphy stated that he is in favor of a 2-year lease with an increase in rent. He recommends the town hire an impartial individual who has experience in this area, perhaps someone with knowledge of Conomo Point or Ipswich. There could be several Selectpersons on the task force and the experts can report back to the full board.

Term of the lease: Chairman Battistelli said she doesn't think the town will know much more in 1 to 2 years.

Selectperson Lucas said she agrees with Chairperson Battistelli. She said she doesn't like the bridge lease idea for 1 to 2 years, but 30 years is too long. She continued that it will take 1-2 years for the seawall situation, and perhaps 5 years investigating selling the property, that would be fair to both parties; she is in favor of 10 year leases. She said that would give the cottage owners time to prepare. A shorter lease sends the message that the Board of Selectmen doesn't know what to do.

Sharin Everett, Kopelman & Paige, said the new lease could have the same 90 termination clause as the existing clause. These leases could be terminated if necessary.

Diane Lashua, Assessor's Office, said until one of these scenarios is played out, the impact on the value of the property will not be known.

Selectperson Lucas said her parents own property on Conomo Point and the properties were devalued during this process in Essex.

Selectperson Sheedy said she is in favor of short term leases to ask the voters what they want to do. With a 2-3 year lease, we could ask the voters if they want to lease the property, do they want to sell and if so, do they want to give the current tenants the first opportunity to purchase. She said she disagrees with Selectperson Lucas that a shorter lease period is more unknown.

Selectperson Murphy said we need to be fair to the taxpayers, the tenants as well as the beach goers. He said we need to take a methodical approach.

Selectperson Wilkinson said she disagrees with Selectpersons Murphy and Sheedy. She said these cottages have been rented for 150 years, we should create new 10-20 year leases, and increase the rent slowly over time to fair market value. She said we should do something and not drag this out. She said we should also look at allowing the cottage owners to occupy the cottages for more than six months each year. She disagrees with asking the voters what they think; she said this is the responsibility of the Board of Selectmen.

Sharin Everett, Kopelman & Paige, said there is no such designation as a bridge lease, it's either an extension or it's a new lease.

The Town Administrator said she used the 5% factor because others were using it, it was just used an example for the Long Beach document. She said she was told it was very high for this property. She said she figured the initial estimate on the seawall of \$13M would probably go higher, then she added \$6M for beach erosion control, just to get a number.

Chairperson Battistelli said the Town Administrator is currently looking for two appraisers. She said if we make a decision about rental amounts it will always be compared to the 5%, so formal appraisals are necessary to substantiate the rental amounts.

The Town Administrator said it may be spring or summer before we get the appraisals back.

Selectperson Sheedy said she would be uncomfortable setting lease amounts without appraisals if the leases are for more than 1-2 years. She thinks the longer term leases promote uncertainty.

The Town Administrator said the Selectperson Sheedy had requested a list of the sale amounts of Long Beach Cottages over the last three years; the prices were very close to the assessed amounts. A spreadsheet was distributed to the Board members.

Selectperson Wilkinson inquired if the rental amount is set given one appraisal and then we get the second opinion back, could the amount be adjusted.

Sharin Everett, Kopelman & Paige, said a key element of a lease is the amount; there must be a meeting of the minds; both parties must agree.

Selectperson Lucas is recommending increasing the rent to 1% of the overall assessed value of the land (\$63M); the rents would amount to \$630,000 which is double what is charged currently. The goal would be going to 1.5% over the 10 year term of the lease. She said if the town wanted to sell the property, the cottage owners should have more time to prepare. She also was in favor of building in an incentive to purchase in Year #5 of a 10 year lease.

The question of determining the value difference for the front row and the back row was discussed.

Chairperson Battistelli said the request for the 30 year leases was the premise that would allow people to do things with their mortgage.

The Town Administrator said that two MAI appraisers are available that are qualified to do fair market value. The closest appraiser is in Connecticut, they have to consider the use because it's public, coastal, and is a transitional use. Said she used the 5% factor because others were using it. Appraisers have said don't use it, it's too high for seasonal and it's too high for some year round properties.

Chairperson Battistelli questioned if we should ask for the second report. She said she would like to leave today with that decision. She questioned if a 90-day extension on the leases would be helpful because this cannot be accomplished by 12/31/13; it's very difficult to get on the schedule of any appraisers.

Selectperson Wilkinson questioned if, like wage reopeners with unions, could a subsequent increase be written into the lease. She questioned if we get second opinion, can we adjust the rent later.

Selectperson Lucas said we want to increase the rent but not to the extreme of forcing the current residents to leave. She said she looked at values (\$63M) and the current rents. This would double the rent, though distribute the rent differently. She said \$310,000 is currently received by the town in rent. Maybe a goal of a 1.5% amount during the course of the 10 years.

Tim Good, regarding valuing the different between the front row and back row, it would be based on what the units would sell for.

Chairperson Battistelli said she believes a 10 year lease provides more stability for the town.

Selectperson Lucas said if the town chooses to sell, she'd like to provide plenty of notice.

Selectperson Murphy said he is still in favor of a task force with a facilitator.

Selectperson Wilkinson said she is in favor of the current arrangements. She stated this isn't just a financial discussion. She said she wonders why all of a sudden we have to do this. She said she is not hearing any public comments that the taxpayers want us to sell. Let's raise the rent and find a descent lease term, the amount of rent is the only aspect that hasn't worked; it hasn't been increased sufficiently over the years.

Selectperson Murphy said he believes very few people in town want the town to sell this land.

Selectperson Lucas said if the cottage owners want to buy the land and the taxpayers want to sell it, it can be amicable.

Selectperson Sheedy stated there are other factors to consider. She said she doesn't know if towns should be leasing properties and if the town wants to be a landlord. She stated that the town has some large expenditures coming up, if we sell the lots that could assist with some infrastructure costs coming up. She recommends a ballot box vote, not town meeting.

Selectperson Lucas inquired if the town enters into a lease agreement, and the town can't afford to fix the wall, what does that mean.

Selectperson Sheedy inquired if the town can assess a betterment for the seawall repairs.

Sharin Everett, from Kopelman & Paige, said betterments can be put in the lease.

Selectperson Wilkinson said we should figure out exactly when we can get a specific timeframe when we can get the appraisals. Not just that we think we can get it in the "spring".

The Town Administrator said we should have an answer for Tuesday night's meeting.

Selectperson Lucas said she feels that doubling the rent now for 5 years, then increasing the rent to 1.5% by year 10 is her personal decision.

Chairperson Battistelli said two appraisers have said the 5% is too high.

Selectperson Wilkinson said your house is worth what you paid for it, because you bought it.

Selectperson Lucas said we are a model of a good tenant/town relationship.

Selectperson Sheedy said she won't accept a number out of the air.

Selectperson Lucas questioned what would we do with the information from an appraiser, would we simply pass it along or would we consider it and perhaps adjust it?

Selectperson Sheedy said we would get the appraised numbers and adjust them.

The Town administrator said at Conomo Point, in Essex, several appraisers were hired by different parties.

Selectperson Sheedy said in lieu of doing full appraisals, could we ask if they can advise a percentage or a range of percentages of our value. Is there a market standard, like the 5% we could get? We could short circuit this process if we could get an acceptable range.

Selectperson Lucas inquired how did the town arrived at the prior rent amounts (\$900, \$1,400). At the end of the 10 year lease, a meeting like this must have been held. She questioned if there was something that the town already agreed to in the past that we should be looking at.

Selectperson Sheedy suggested asking the voters.

Selectperson Murphy said he's hearing that townspeople want to extend the leases.

The Town Administrator said the LBIA requests mortgageability and they'd have to own the land.

Selectperson Lucas inquired if the town could charge a fee when a sale occurs, because the town doesn't benefit at all in the transaction. She said for example, if the house is worth \$100,000 and it sells for \$600,000, the \$500,000 is the right to lease property from Rockport. The sellers are making the money based on the relationship with the town.

Sharin Everett, Kopelman & Paige, said there can be a percentage assignment written into the lease.

Selectperson Sheedy commented that only 11 properties have sold over the last 3 years.

Chairperson Battistelli stated we're not going to decide lease rates today, we aren't agreeing on length of lease – we can carry these over to Tuesday night. She said we need to talk about seasonal vs. year round because the cottage owners are taxed year round; they can only occupy the cottages seasonally. She said she is hearing from Long Beach residents that they don't want year round availability. She recommended surveying residents.

Survey questions:

Seasonal vs. year round or an extended season. The cottage owners would be responsible to upgrade the water lines, etc. The sewer with Gloucester is only allowed for 6 months. The Town Administrator said the flow is under the threshold. She said Gloucester would be fine with it, but it would need to be stated in the intermunicipal agreement. How about asking the residents to check off which months they'd like access to the cottage for? There are multiple cottages coming into the water main. We plow the road now, but Selectperson Murphy said if there were school children down there, we might need to worry about getting the buses down there.

Selectperson Lucas inquired if the new FEMA maps have something to do with the seawall repair. The appeal period is up 11/9/13. She said the maps affect the properties behind the wall, but FEMA doesn't dictate how the town should build a seawall.

Tim Good said in order to get comps, the appraiser is going to have to find other communities with rented land. He said appraisal theory looks at 3 approaches, 1) sales, 2) income and 3) cost approach; most in this area are based on sales. He stated that single family homes are not generally purchased for income.

Selectperson Sheedy said the financial analyst needs to take the information from an appraisal report and present it. They'd have to analyze the scenario of us selling the property, estimate the gross revenue, minus the costs, then take the net and advise if we invested it, what would that look like.

The Town Administrator said she's heard concerns that if the cottages could be used year round, this would impact the taxes. She said it could if the value was increased due to the increased availability.

The Town Administrator said the financial analyst is waiting until appraiser(s) do their work. There is a cost not to exceed amount. They need to take the information from the appraiser's report and present it in fair market value.

Selectperson Lucas said she was impressed with the document from Mel Michaels. She said she loves to see new ideas that haven't been discussed. The proposal was putting the houses on stilts, removing the wall and not replacing it. The cost for that is a fraction of the repair of the wall.

Sharin Everett, Kopelman & Paige, questioned if the town is going to allow for mortgages on the property. She said the current leases don't say that.

The Town Administrator said one of the tenants' requests is that they don't want to have the bank come to the Board of Selectmen.

Selectpersons Sheedy and Murphy are in favor of leaving it in. Selectperson Sheedy said it hasn't affected the mortgages thus far.

The Town Administrator stated the 90 day out clause in the lease needs to be looked at.

Selectperson Sheedy said we should add that it would be exercised "only in these circumstances". When leases are transferred they currently come before the Board. The current lease says the number of parties can be up to three parties without duly executed pledges. It is also recommended that parking spaces should be included in the lease.

Selectperson Sheedy said she would look to town counsel to tell us what those specific circumstances are where we could exercise the 90 notice to terminate.

Chairperson Battistelli said the current lease says the cottage is to be used for a private dwelling. What does the mean regarding leasing to other parties? The survey should also ask if they rent out their cottage.

Selectperson Murphy said he is not in favor of prohibiting the cottage owners from renting their cottages, because it would be unenforceable.

It was questioned if we could sell some of the cottages but not all of the cottages?

M. Vieira said the survey questions are:

1. Do you rent your cottage to others?
2. Are you interested in buying the land?
3. If you are in favor of extending the season, please indicate which months (check boxes).
4. Do you care if your neighbors rent their cottages out?

Selectperson Wilkinson recommending reviewing the draft lease and discussing it on Tuesday night.

Selectperson Murphy moved to adjourn, Selectperson Wilkinson seconded, Vote 5-0.